



March 8, 1999

Mr. Jay Garrett
City Attorney
P.O. Box 1049
Greenville, Texas 75403-1049

OR99-0641

Dear Mr. Garrett:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 122614.

The City of Greenville Police Department (the "city") received a request for information concerning a specified offense/incident report. In response to the request, you submit to this office for review a copy of the information at issue. You assert that the requested information is excepted from disclosure based on sections 552.103 and 552.108 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication

Generally, a governmental body claiming an exception under section 552.108(a) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law

¹Although you cite to section 552.103, you offered no further explanation for your claim. See Gov't Code § 552.301(b); Open Records Decision No. 363 (1983). We note that chapter 552 of the Government Code places on the custodian of public records the burden of establishing that records are excepted from public disclosure. Attorney General Opinion H-436 (1974).

enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state that the requested information relates to "an active file awaiting further investigation or prosecution." A review of the information reveals that the incident in question involves a reported incident of alleged assault by threat, and as such is relevant to the prosecution of the pending case. As the requested information relates to a pending criminal charge and prosecution, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime.

However, we note that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report.² *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). In Open Records Decision No. 127 (1976), this office concluded that "identification and description of witnesses" is information which is protected by section 552.108; however, "identification and description" of a complainant is subject to release under *Houston Chronicle* as front page information. Therefore, we conclude that, except for the front page information, the city may withhold the requested information from disclosure under section 552.108(a)(1). Although section 552.108 authorizes you to withhold the remaining requested information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

Because we are able to make a determination under section 552.108, we do not address your other argument against disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Haddad", written over a horizontal line.

Sam Haddad
Assistant Attorney General
Open Records Division

²Basic information in an offense report generally may not be withheld under section 552.103. Open Records Decision No. 597 (1991).

SH/nc

Ref.: ID# 122614

cc: Ms. Suzanne Ekvall
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(w/o enclosures)